

Appl. No. 10/025,059
Atty. Docket No. 8819
Amtd. Dated 10/08/03
Reply to Office Action of 08/11/2003
Customer No. 27752

REMARKS

Claims 1-19 are pending in the present application. No additional claims fee is believed to be due.

Claim 18 is canceled without prejudice. A new claim 19 has been added.

Claim 1 has been amended to overcome the 35 USC 112, second paragraph indefiniteness rejection. With respect to the claimed two portions — a colored portion and a non-colored portion -- the words "at least two portions" have been deleted. With respect to the two shades, the words "at least two shades" have been deleted.

Claim 14 has been amended to overcome the insufficient antecedent basis with respect to the recited limitation "the colored insert." Support for this amendment is found at page 8, line 19, stating that "the colored portion may be a multi-layered insert positioned beneath the topsheet 28."

In addition, a new claim 19 has been added. Support for this amendment is found at page 8, line 7 of the specification.

Claims 3-7 have not been rejected. Applicants believe that claims 3-7 should be allowed.

It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

Specification

The office Action requires a new title that is clearly indicative of the invention. Accordingly, the title has been amended.

Applicants amended the paragraph beginning at page 8, line 7, by deleting numerals 50 and inserting numerals 40 in three places. Only in this paragraph, the colored portion was inadvertently identified by the numeral 50, but in all other places of the disclosure (e.g., page 6, lines 26 and 28, page 7, lines 9 and 13, and page 8, lines 14, 16, 17 and 19, as well as in Figures 1-3, the colored portion is identified by the numeral 40.

Rejection Under 35 USC 112

Claims 1-18 are rejected under 35 USC 112, second paragraph, as being indefinite.

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With respect to claim 1, the Office Action questions if the applicant intends to claim that the article has four portions (i.e., two portions, a third colored portion and a fourth non-colored portion) or that the article has two portions that include the colored portion and the non-colored portion. Similarly, the Office Action questions about shades: does the article have four shades or does the article have two shades that include the first and second shade. Claim 1 has been amended to overcome the rejection.

With respect to claim 18, similarly as with Claim 1 above, the Office Action questions the shades. Claim 18 is cancelled; therefore the rejection of claim 18 is moot.

With respect to claim 14, the Office Action states that there is insufficient antecedent basis for the limitation "the colored insert." Claim 14 has been amended to overcome the rejection.

Rejection Under 35 USC 102

Claims 1-2 and 8-18 have been rejected under 35 USC 102(e) as being anticipated by Benecke et al. (US 2003/0114818). Applicants respectfully traverse this rejection.

Benecke et al. teaches a colored surface (i.e., 20 in Figures 11a-c) on a dark substrate (i.e., 22 in Figure 11a or 18 in Figure 11d), see paragraphs [0070] and [0071].

The Applicant cannot find any disclosure in Benecke et al. of at least two claim limitations:

- 1) a colored portion and a non-colored portion, wherein the colored portion (e.g., element 20 in Figure 11a of Benecke et al.) has a first shade and a second shade; and
- 2) the first shade [of the colored portion] being positioned substantially within the second shade [of the colored portion].

Therefore, because Benecke does not teach every element of claim 1, Benecke does not anticipate claim 1, and claim 1 should be allowed.

Because claims 2 and 8-17 depend from claim 1, claims 2 and 8-17 should be also allowed. Claim 18 has been cancelled, therefore the rejection of claim 18 is moot.

Conclusion

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In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejection under 35 USC 102. Early and favorable action in the case is respectfully requested.

Applicants have made an earnest effort to place their application in proper form and to distinguish the invention as now claimed from the applied references. In view of the foregoing, Applicants respectfully request reconsideration of this application, entry of the amendments presented herein, and allowance of claims 1-17 and 19.

Respectfully submitted,

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